



Appeal Decisions

Site visit made on 19 November 2019

by Elizabeth Pleasant BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 December 2019

Appeal A: APP/T5150/C/18/3218666

Appeal B: APP/T5150/C/18/3218667

Land at 91 Norval Road, Wembley HA0 3TA

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeals are made by Mr Kunjal Patel (Appeal A) and Dr Sonal Patel (Appeal B) against an enforcement notice issued by the Council of the London Borough of Brent.
 - The enforcement notice was issued on 17 November 2018.
 - The breach of planning control as alleged in the notice is: Without planning permission, the erection of a wrap-around structure/extension to the side and rear of the premises and the erection of decking, stairs, railings and canopy structure over part of the decking at the rear of the premises.
 - The requirements of the notice are:
 - STEP 1 Demolish the wrap-around structure/extension to the side and rear of the premises.
 - STEP 2 Demolish the decking, stairs, railings and canopy structure to the rear of the premises.
 - STEP 3 Restore the premises back to its original condition before the unauthorised development took place.
 - STEP 4 Remove all items and debris arising from that demolition and remove all materials associated with the unauthorised development from the premises.
 - The period for compliance with the requirements is 3 months.
 - Appeal A is proceeding on the grounds set out in section 174(2) (a), (b), (c), (d), (f) of the Town and Country Planning Act 1990 as amended. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act as amended.
 - Appeal B is proceeding on the grounds set out in section 174(2) (b), (c), (d), (f) of the Town and Country Planning Act 1990 as amended. Since the prescribed fees have not been paid within the specified period, the appeal on ground (a) and the application for planning permission deemed to have been made under section 177(5) of the Act as amended have lapsed.
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Decisions

Appeal A

1. The appeal is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177 (5) of the 1990 Act as amended for the development carried out, namely the erection of a wrap-around structure/extension to the side and rear of the premises and the erection of decking, stairs, railings and canopy

structure over part of the decking at the rear of the premises at land at 91 Norval Road, Wembley HA0 3TA as shown on the plan attached to the notice.

Appeal B

2. The Appeal is dismissed, but the enforcement notice is not upheld.

Procedural Matter

3. Appeals A and B seek to proceed on grounds (b) and (c), where the issues are that those matters stated in the notice which give rise to the alleged breach of planning control have not occurred as a matter of fact and that, if they have occurred, they did not constitute a breach of planning control. However, taking into account the evidence submitted by the appellants, it seems to me that the case being argued on both of these grounds is that the structure has existed for more than four years and therefore no enforcement action may be taken. That argument is more relevant to ground (d), where the issue is that at the date the notice was issued no enforcement action could be taken in respect of any breach of planning control which may be constituted by the those matters (i.e. the matters alleged in the notice). I am satisfied that there would be no injustice to the local planning authority or the appellant if I confine my considerations to ground (d) rather than grounds (b) and (c), and it is on that basis that I have made my decision.

Appeals A and B: ground (d)

4. In relation to a breach of planning control consisting of operational development, no enforcement action may be taken after the end of the period of four years beginning with the date on which the operations were substantially complete (s171B (1)).
5. The main issue is whether the operations alleged in the notice were substantially complete on or before the 17 November 2014. The appellants maintain that the structure has been in place since 2008. It is said that the property was purchased by them in July 2015 and the development alleged in the notice was completed at that time. The property details provided by the estate agent for that sale confirm it was purchased in July 2015. However, the purchase was in July 2015 which is after the relevant date of 17 November 2014. Thus, even if the works were completed at that time, does not demonstrate they were substantially complete on or before the relevant date of 17 November 2014.
6. The appellants' also rely on evidence provided by the estate agent relating to the sale of the property to the previous occupiers, email correspondence from the previous occupier and satellite images.
7. The property was purchased by the previous occupiers in 2008 and the Sales Manager¹ states that when he sold them the property the extension had been constructed. However, the sales particulars relating to that purchase shows a different form of extension to that which has been completed and illustrated in the 2015 sales details. In particular, the floor plans are different, there is no infill extension to the rear of the garage and the decking and canopy are not evident. Furthermore, the satellite images for July 2010 and July 2013 both

¹ Letter dated 18 December 2018, Daniels Estate Agents.

show that the decking and infill rear extension were not in place at that time. Consequently, whilst the previous occupier provided confirmation that there was a rear extension in place when they purchased the property in 2008, the sales particulars and google images illustrate a different form of extension than that alleged in the notice. The evidence provided does not therefore confirm that the wrap-around extension, decking, stairs, railings and canopy structure alleged in the notice were substantially complete on the relevant date.

8. Taking into account all of the above, the circumstances of this case are such that I am not satisfied that the evidence is sufficiently precise and unambiguous to conclude on the balance of probability that the operations in question are immune from enforcement action.
9. I conclude that the development alleged in the notice has not become lawful due to the passage of time. The appeals on ground (d) do not succeed.

Appeal A on ground (a), deemed planning application

Main Issues

10. The main issues in this case are the effect of the development on the:

- character and appearance of the host property and Sudbury Court Conservation Area; and
- living conditions of neighbouring residents, with particular regard to outlook, light and privacy.

Reasons

Character and appearance

11. 91 Norval Road is an inter-war semi-detached property which is situated within Sudbury Court Conservation Area (CA). From the evidence before me, including the Sudbury Court Conservation Area Character Appraisal (SCCA) and my own observations, the special character and significance of the CA as a heritage asset is largely derived from both the design of the buildings and their street setting. The houses are spaciouly positioned within verdant gardens and tree lined streets. The planned garden suburb layout and the well-detailed stylised Arts and Crafts influenced houses give the area a harmonious character and appearance.
12. The appeal property retains its basic architectural proportions and some original features, although new windows have been installed which are not particularly sympathetic to the host property and a porch has been added to the front elevation. Overall, I consider that the property has a neutral effect on the conservation and street scene.
13. The development extends the full width of the rear elevation and infills a gap behind the garage. It is clad with horizontal timber boarding. Although the extension abuts its common boundaries with neighbouring properties, it is well proportioned and appears subordinate to the host property.
14. The Sudbury Court Design Guide, 2015 (SPG) and the Council's Residential Extensions & Alterations SPD 2 advise that rear extensions will generally be required to be constructed in materials to match the existing property. The

front and rear elevations of the original property are predominantly rendered with some brickwork, and therefore the timber cladding does not match the building's original materials. However, the weathered timber cladding has a subtle and natural appearance which is not intrusive. In my view, whilst the materials do not match the building's original materials, their overall appearance has only a limited impact on the aesthetics of the property's rear elevation. Moreover, given the position of the extension at the rear of the property, it does not impact on the visual qualities of the surrounding area nor the character or appearance of the CA, the heritage significance of which is set out above.

15. I appreciate that the roof of the extension projects above the existing garage roof. However, its upstand is not substantial in height. In addition, it is situated at the rear of the garage which means that it is well recessed from the property's front elevation and not visually prominent. Furthermore, the tile hung cladding with which the upstand has been faced, blends in with the neighbouring brickwork on the abutting gables. Overall, the upstand is barely discernible from the street and does not have a harmful effect on either the appearance of the host property or the CA.
16. I conclude that the development does not have a harmful effect on the host property and accords with the provisions of the Planning (Listed Buildings & Conservation Areas) Act, 1990 and preserves the character and appearance of Sudbury Court Conservation Area. I therefore find no conflict with the National Planning Policy Framework's policies which seek to conserve the historic environment. There is also no conflict with the development plan, and in particular with the overall design and heritage aims of Policy DMP1 of the London Borough of Brent Development Management Policies Document, adopted 2006 (DMPD) and the Councils SPD 2 and SPG.

Living conditions

17. I appreciate that this development extends across the full width of the property's rear elevation. However, it does not extend beyond the rear elevations of the neighbouring properties, both of which have ground floor rear extensions of a similar scale. In addition, the small canopy area which covers part of the decking does not project beyond the existing canopy structure at No 89. Therefore, there are no views of the flank walls of the extension from the neighbour's windows and neither the extension or the canopy has a harmful effect on outlook for the occupiers of Nos. 89 or 93. Furthermore, the extension does not restrict the amount of daylight or sunlight available to those properties.
18. The decked area sits above the level of the property's rear garden with steps leading down to the lawn area beyond. However, the existing boundary fencing and hedge planting prevent any overlooking of the neighbour's private amenity areas from the decked area. The only views that are available of the neighbour's property are oblique and of the very end of their gardens. I am satisfied that the decking does not result in significant overlooking of the neighbouring property and the noise generated from people walking on the decking and steps would not to my mind be significantly harmful.
19. I conclude that the development does not have a harmful effect on the living conditions of neighbouring residents, with particular regard to outlook, light or privacy. There is therefore no conflict with the development plan, and in

particular with the amenity aims of Policy DMP1 of the DMPD and SPD 2. I also find no conflict with paragraph 127 of the National Planning Policy Framework which requires a high standard of amenity for existing and future occupiers.

Other Matters

20. I have had regard to the neighbour's concern over the construction methods employed in this development and the impact they believe the extension has had on their property in relation to damp and encroachment. However, I do not have any substantive evidence that the extension has caused such damage and in any event, these matters would be covered under separate legal rights and are not a matter for my consideration in this appeal.

Conclusions

21. For the reasons given above, I conclude that Appeal A succeeds on ground (a). I shall grant planning permission for the erection of a wrap-around structure/extension to the side and rear of the premises and the erection of decking, stairs, railings and canopy structure over part of the decking at the rear of the premises as described in the notice. Appeals A and B on ground (f) do not fall to be considered.

Elizabeth Pleasant

INSPECTOR